IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1968

Supreme Court, U.S.
FILED
OCT 17 1968
JOHN F. DAVIS, CLERK

No. 64

JOHN S. BOYLE, Chief Judge of the Circuit Court of Cook County, Illinois; JOHN J. STAMOS, State's Attorney of Cook County, Illinois; MAURICE W. LEE and JOHN S. LIMPERIS, Magistrates of the Circuit Court of Cook County, Illinois; and JOSEPH I. WOODS, Sheriff of Cook County, Illinois,

Appellants,

vs.

LAWRENCE LANDRY, ROMMELL MULLER, JOSEPH H. REYNOLDS, DAVID A. REYNOLDS, JAMES WASHINGTON, FRANK DITTO, ROBERT LUCAS, ROBERT BROWN, MICHAEL ROGERS, BERNARD HUGHES, ARNOLD FORD, VISSA MARIE TURNER, WYSINGO TURNER, ANDREW BROWN, CHARLES FLETCHER, JAMES JONES, HERMAN TOWNSEND, JEROME PARKER, RUDY HOOPER and ACT, an unincorporated association,

Appellees.

On Appeal From the United States District Court for the Northern District of Illinois, Eastern Division.

MOTION TO AFFIRM UNDER RULE 16 OF THE RULES OF THE SUPREME COURT OF THE UNITED STATES

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IN THE
SUPREME COURT OF THE UNITED STATES
October Term, 1968

NO. 244

JOHN S. BOYLE, Chief Judge of the Circuit Court of Cook County, Illinois; JOHN J. STAMOS, State's Attorney of Cook County, Illinois; MAURICE W. LEE and JOHN S. LIMPERIS, Magistrates of the Circuit Court of Cook County, Illinois; JOSEPH I. WOODS, Sheriff of Cook County, Illinois,

Appellants,

vs.

LAWRENCE LANDRY, ROMMELL MULLER, JOSEPH H. REYNOLDS, DAVID A. REYNOLDS, JAMES WASHINGTON, FRANK DITTO, ROBERT LUCAS, ROBERT BROWN, MICHAEL ROGERS, BERNARD HUGHES, ARNOLD FORD, VISSA MARIE TURNER, WYSINGO TURNER, ANDREW BROWN, CHARLES FLETCHER, JAMES JONES, HERMAN TOWNSEND, JEROME PARKER, RUDY HOOPER and ACT, an unincorporated association,

Appellees.

On Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.

MOTION TO AFFIRM UNDER RULE 16 OF THE RULES OF THE SUPREME COURT OF THE UNITED STATES.

Now come LAWRENCE LANDRY, ROMMELL MULLER, JOSEPH H. REYNOLDS, DAVID A. REYNOLDS, JAMES WASHINGTON, FRANK DITTO, ROBERT LUCAS, ROBERT BROWN, MICHAEL ROGERS, BERNARD HUGHES ARNOLD FORD, VISSA MARIE TURNER, WYSINGO TURNER, ANDREW BROWN, CHARLES FLETCHER, JAMES JONES, HERMAN TOWNSEND, JEROME PARKER, RUDY HOOPER and ACT, an unincorporated association, Appellees, pursuant to the provisions of Rule 16 of the Rules of the Supreme Court of the United States and respectfully move this Court to enter an order affirming that portion of the Judgment of the United States District Court for the Northern District of Illinois, Eastern Division, which declared Illinois Revised Statutes, Chapter 38, Section 12-6 (a) (3), unconstitutional and void.

The Three Judge District Court below made a thorough analysis of the leading cases in this Court which have involved direct limitations on speech, and gave clear and complete recognition to this Court's frequently pronounced principle that free speech is not an unlimited, unqualified right, but that societal value of speech must, on occasion, be subordinated to other values and considerations. Indeed,

the appellees herein have respectfully urged that the trial court below went too far in the application of the foregoing principle, resulting in its declaration of validity with respect to several other subsections of the Illinois Intimidation Statute. In this instance, the trial court asked itself, with respect to each subdivision of the Illinois Intimidation Statute, whether the gravity of the "evil," discounted by its improbability, justified this invasion of free speech by the State of Illinois. Dennis vs. United States, 341 U.S. 494, 507 -510 (1951). As regards Subsection (a) (3), which is the subject of this appeal, the trial court properly concluded that the alleged interests which the State of Illinois here purported to protect was too insubstantial to warrant restrictions of speech. Accordingly, the court below properly found Subsection (a) (3) to be overbroad. Martin vs. Struthers, 319 U.S. 141, 143-44 (1943); Schneider vs. State, 308 U.S. 147, 161 (1939).

It is respectfully submitted that this portion of the trial court's Judgment, limited to its construction of Subsection (a) (3) of the Illinois Intimidation Statute should be affirmed.

Respectfully submitted,

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PROOF OF SERVICE

STATE OF ILLINOIS)
) SS
COUNTY OF COOK)

Robert L. Tucker hereby certifies that he served a copy of the foregoing Motion to Affirm under Rule 16 of the Rules of the Supreme Court of the United States, by mailing a copy of same, first class mail, postage prepaid to:

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